

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

DIANE WIELAND AND THOMAS WIELAND,) CASE NO.
Plaintiffs,)
v.) JUDGE
NOVARTIS PHARMACEUTICALS CORPORATION,)
Defendant.) NOTICE OF REMOVAL
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Now comes Defendant Novartis Pharmaceuticals Corporation (hereinafter “NPC”), through counsel, and hereby files this Notice of Removal and related papers in order to remove this action to this Honorable Court from the Court of Common Pleas for Cuyahoga County, Ohio pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. In support of removal, NPC states:

1. On January 19, 2010, Plaintiffs filed a lawsuit against NPC in the Court of Common Pleas, Cuyahoga County, Ohio, captioned *Diane Wieland and Thomas Wieland v. Novartis Pharmaceuticals Corporation*, Case No. CV10715846 (hereinafter “State Court Action”).
2. NPC was served with the Summons and Complaint in the State Court Action on February 8, 2010. No proceedings have occurred in that action. A copy of the documents served on NPC is attached as Exhibit “A.” NPC has timely removed this action pursuant to 28 U.S.C. § 1446(b).
3. The Court of Common Pleas, Cuyahoga County, Ohio is located within the Northern District of Ohio, Eastern Division, and, therefore, removal to this Court satisfies the venue requirements of 28 U.S.C. § 1446(a).

4. There is complete diversity among the parties:
 - a. Plaintiff Diane Wieland is a citizen of Ohio. Plaintiff is a resident of Cuyahoga County, Ohio. *See* Complaint ¶ 1. Plaintiff is registered to vote in Ohio and last voted on November 4, 2008. Plaintiff was married in the state of Ohio in 1982.
 - b. Plaintiff Thomas Wieland is a citizen of Ohio. Plaintiff is a resident of Cuyahoga County, Ohio. *See* Complaint ¶ 1. Plaintiff is registered to vote in Ohio and last voted on November 4, 2008. Plaintiff was married in the state of Ohio in 1982.
 - c. NPC is, and has been at all relevant times, a corporation incorporated under the laws of the State of Delaware with its principal place of business in the State of New Jersey. Therefore, NPC is a citizen of both the states of Delaware and New Jersey.

5. Plaintiffs allege that Diane Wieland suffered injuries, including osteonecrosis of the jaw (“ONJ”), as a result of treatment with NPC’s prescription medication Zometa®. *See* Complaint ¶¶ 4, 5, 12. The Complaint seeks consequential damages. *See* Complaint ¶¶ 47, 50. Upon information and belief, Plaintiffs’ Complaint seeks damages in excess of \$75,000.00, exclusive of interest and costs. 28 U.S.C. § 1332(a). In fact, a number of suits involving similar claims and alleging similar damages have been filed in other federal courts asserting jurisdiction under § 1332(a). Pursuant to 28 U.S.C. § 1407, these cases have been or will be consolidated in a multidistrict litigation captioned *In Re: Aredia® and Zometa® Products Liability Litigation*, No. 3:06-MD-1760, now pending in the United States District Court for the Middle District of Tennessee.

6. This Court has original subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(a) because complete diversity of citizenship exists between Plaintiffs and the Defendant NPC, *see supra* ¶ 4, and the amount in controversy, exclusive of interest and costs, exceeds \$75,000.00, *see supra* ¶ 5.

7. Defendant NPC, therefore, may properly remove this action pursuant to 28 U.S.C. § 1441(a).

8. This Notice is being filed within 30 days after NPC's first receipt of a copy of the initial pleading setting forth the claim for relief upon which the action is based, as required by 28 U.S.C. § 1446(b).

9. A copy of the written notice required by 28 U.S.C. § 1446(d) is attached as Exhibit "B" and is being filed in the Court of Common Pleas, Cuyahoga County, Ohio and served on Plaintiffs.

Respectfully submitted,

s/ Matthew L. Snyder
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Attorneys for Defendant,
Novartis Pharmaceuticals Corporation

PROOF OF SERVICE

This is to certify that a copy of NOVARTIS PHARMACEUTICALS CORPORATION'S NOTICE OF REMOVAL was sent to all parties via the Court's electronic mail notification and by ordinary U.S. mail to William J. Novak, Esq. and Michelle D. Bogle, Esq., Novak, Robenalt, & Pavlik, L.L.P., Tower City Center, 1660 West Second Street, Suite 950, Cleveland Ohio 44113, Counsel for plaintiffs, this 23d day of February 2010.

/s/ Matthew L. Snyder
Matthew L. Snyder